IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 15458 of 2002

Between:

Ch.R.Prasad S/o Narasimha Murthy Occ: APSRTC Conductor
E.No. 82667, Razole Depot,
Razole, East Godavari Dist.

... PETITIONER

AND

1 The APSRTC, Rep. by its Chairman and Managing Director RTC "X"

Roads, Musheerabad, Hyderabad
2 The Divisional Manager, APSRTC, East Godavari Region, Rajahmundry,
East Godavari District.
3 The Depot Manager, APSRTC, Razole Depot, Razole,
East Godavari District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order or orders, direction or directions, writ or writs, particularly one in the nature of "WRIT OF MANDAMUS" call for the records pertaining to orders of the 3rd respondent vide APSRTC No. 01/804(1)/2001-Rzl, dated 20-6-2001 and set aside the same as illegal, arbitrary, against the Regulation of 40.07 and the law laid down by this Hon'ble Court in Ch.P.Reddy Vs. APSRTC Hyderabad, consequently direct the respondent not to recover the cost of the lost tickets except printing charges

Counsel for the Petitioner: MR.K.L.N.SWAMY

Counsel for the Respondents: SMT.B.G.UMADEVI

The Court made the following order:

ORDER:

Petitioner is working as conductor in Razole Depot of APSRTC. While he was performing his duty on vehicle No: 7511 on the route from Visakhapatnam to Razole on 16.05.2001 with the ticket tray No.321, he lost the said blocks of tickets worth Rs.54,551/-. Therefore, the following charge was framed against the petitioner:

> "For having lost the tickets blocks worth Rs.54,551/- as mentioned above while you were performing duty on the vehicle no:7511 on the route Visakhapatnam—Razole with the tray no.321 vide way bill no.0564/32101037 on 16.05.2001 at about 21.45 hrs. at Visakhapatnam which clearly shows your gross negligence of duty which constitutes misconduct under Reg.28(V) and (ix(a)) of APSRTC Employees (Conduct) Reg.63."

Perusal of the charge shows that petitioner lost the ticket blocks worth Rs.54,551/- while on duty and an action was sought to be taken stating that the said loss of tickets was only due to gross negligence on duty which constituted misconduct.

It is the case of the petitioner that he immediately lodged a police complaint in II Town Police Station, Visakhapatnam on 16.05.2001 stating that he lost block of tickets. Pursuant to the said report the third respondent vide letter dated 18.05.2001 sought for an explanation from the petitioner. Petitioner filed an explanation stating that there is no misuse of tickets or any loss of the face value of the tickets to the respondent corporation and explained the

circumstances in which he lost the said ticket blocks.

Perusal of the record shows that no regular enquiry has been conducted except calling for the explanation. Petitioner submitted an explanation and after considering the explanation the third respondent passed an order dated 30.05.2001 awarding punishment of one annual increment deferring for a period of year without cumulative effect and issued show cause notice as to why an amount of RS.29,251.80/- towards the ticket blocks, printing and stationery charges should not be recovered from his salary.

Petitioner filed an explanation on 11.06.2001 and after considering the explanation final orders were passed on 20.06.2001 directing the petitioner to pay an amount of Rs.29,251.80/- from the salary @Rs.500/- in 58 instalments.

It is the case of the petitioner that he has no grievance insofar as the punishment imposed on him and stoppage of one annual increment as ordered by the Deport Manager, Razole dated 30.05.2001 are concerned but his only grievance is towards the recovery of face value of the tickets amounting to Rs.29,251.80/-. It is not the case of the respondents that the said face value was in any way misappropriated by the petitioner. It is his case that there is no misuse or fraud committed by him in selling away the lost tickets.

This Court in **CH. P. REDDY v. APSRTC** held that as per clause (5) of Regulation 8 of C.C.A. Regulations the respondent Corporation can recover only an amount to the extent of the pecuniary loss caused to the Corporation by an employee by negligence or breaching of orders. Therefore, Clause (5) of regulation 8 does not permit the respondents to impose a penalty, which is more than the amount of the loss the Corporation has suffered.

In the instant case also admittedly the respondents have not suffered loss of amount, which the tickets could not fetch, or if they were sold to the passengers traveling in the buses. They have only suffered the loss, which was incurred by the Corporation in their printing and stacking. Therefore, the respondents are entitled to recover only the printing and stacking cost of the said tickets but not the face value of the tickets.

In view of the aforesaid judgment the order of the respondent dated 20.06.2001 to recover an amount of RS.29,251.80/- towards the face value of the ticket blocks is set aside keeping it open for the respondents to recover the printing, stationery and stacking charges. The amount recovered on the face value of the tickets shall be refunded after deducting the value of printing, stationery and stacking charges within a period of six weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. No costs.

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V. ESWARAIAH, J

November 11, 2004

Dsk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Thursday the Eleventh Day of November Two thousand and Four.

To

1 The Chairman and Managing Director, APSRTC, RTC "X"

Roads, Musheerabad, Hyderabad

2 The Divisional Manager, APSRTC, East Godavari Region, Rajahmundry, East Godavari District.

3 The Depot Manager, APSRTC, Razole Depot, Razole, East Godavari District.

4 Two CD Copies.